

SENATE BILL No. 78

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-15.

Synopsis: Next of kin control of bodies. Prohibits certain persons from making certain determinations concerning the remains of a decedent if the decedent appears to have died as the result of murder, voluntary manslaughter, or another criminal act and the decedent had filed a protection order against the person.

Effective: July 1, 2010.

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January 5, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE BILL No. 78

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-15-2-24 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2010]: **Sec. 24. "Protection order" means an injunction or other**
4 **order issued by a tribunal of the issuing state or Indian tribe to**
5 **prevent an individual from:**

6 **(1) engaging in violent or threatening acts against;**

7 **(2) engaging in harassment of;**

8 **(3) engaging in contact or communication with; or**

9 **(4) being in physical proximity to;**

10 **another person, including temporary and final orders issued by**
11 **civil and criminal courts.**

12 SECTION 2. IC 25-15-9-18, AS AMENDED BY P.L.143-2009,
13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2010]: **Sec. 18. (a) Except as provided in subsection (b), the**
15 **following persons, in the order of priority indicated, have the authority**
16 **to designate the manner, type, and selection of the final disposition and**
17 **interment of human remains:**



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(1) An individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19.

(2) An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time of the decedent's death.

(4) The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the licensed funeral director or licensed funeral home receives a written objection from another adult child.

(5) The decedent's surviving parent. If the decedent is survived by both parents, either parent has the authority unless the licensed funeral director or licensed funeral home receives a written objection from the other parent.

(6) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree survives, any person of that degree has the authority unless the licensed funeral director or licensed funeral home receives a written objection from one (1) or more persons of the same degree.

(7) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through (6) is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that:

(A) there is a reasonable suspicion that a person described in subsection (a) committed the offense; **or**

(B) the decedent had filed a protection order against the person described in subsection (a);

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1 the person referred to in subdivision (2) may not authorize or designate
2 the manner, type, or selection of the final disposition and internment of
3 human remains.

4 (c) The coroner, in consultation with the law enforcement agency
5 investigating the death of the decedent, shall inform the cemetery
6 owner or crematory authority of the determination under subsection
7 (b)(2).

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